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OFFICE OF PETITIONS

In re Application of	:	
Louis B. Johnson, et. al.	:	
Application No. 10/750,884	:	ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. 12080-0002CP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 26, 2007, to revive the above-identified application.

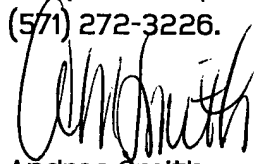
The application became abandoned for failure to reply to the non-final Office action mailed November 16, 2005. A Notice of Abandonment was mailed on May 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application; (2) the petition fee of \$770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, this will be construed as a request to expressly abandon this application in favor of the granting of a filing date to the continuing application. Accordingly, this application is revived solely for the purpose of continuity with continuing Application No. 11/976,628, filed October 26, 2007. As continuity has been established by the revival of this application, this application is again abandoned in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The Office acknowledges receipt of \$525 for a three months extension of time filed on October 26, 2007. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the \$525 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

A handwritten signature in black ink, appearing to read 'Andrea Smith', is written over the printed name.

Andrea Smith
Petitions Examiner
Office of Petitions